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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-second year

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

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Letter of transmittal

15 August 2007

I have the honour to submit the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 15 August 2007 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

The President
(*Signed*) Charles Michael Dennis **Byron**

Twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Summary

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2006 to 30 June 2007.

In addition to judicial matters falling within the ambit of the President's powers, the Office of the President continued its action in view of the completion strategy of the Tribunal during the reporting period. A revised completion strategy report was submitted to the Security Council on 24 May 2007 in conformity with Security Council resolution 1534 (2004).

During the reporting period, the three Trial Chambers of the Tribunal rendered five judgements in cases involving five accused persons (*Jean Mpambara, Tharcisse Muvunyi, Joseph Nzabirinda, Athanase Seromba* and *André Rwamakuba*). Two other trials involving five accused have been completed and await judgements (*Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva* and *François Karera*). One case has been transferred to the Kingdom of The Netherlands. A new trial concerning one accused commenced in June 2007. In addition to the 27 cases involving 33 accused that have been completed in first instance, trials involving 22 accused in 9 different cases are in progress. Eight detainees are awaiting trial.

The Appeals Chamber rendered 4 appeal judgements in respect to 6 persons (*André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe, Sylvestre Gacumbitsi, Emmanuel Ndindabahizi* and *Mika Muhimana*), 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

The prosecutor has continued to focus his efforts on securing the arrest of the remaining fugitives. The prosecutor has handed over 30 case files for prosecution before Rwandan national courts. He also entered into negotiations with States for the transfer of approximately 15 cases from the Tribunal to national jurisdictions.

The Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. It played an instrumental role in ensuring the cooperation and assistance of Member States with the Tribunal. The Outreach Programme of the Registry conducted a diverse range of activities both in Arusha and in Rwanda. The Court Management Section supported 15 trials during the reporting period and maintained all relevant documentation. The Defence Counsel and Management Section continued to offer support to defence teams of indigent accused persons or suspects. The Witnesses and Victims Support Section assisted 280

witnesses and continued its work in the relocation of protected witnesses. The Press and Public Affairs Unit and the Legal Library and Reference Section continued to contribute to the large promotion of the Tribunal's work as well as to the capacity-building of Rwanda.

During the reporting period, Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to court proceedings.

To date, the Tribunal has concluded proceedings against 33 accused persons. The present report illustrates the Tribunal's absolute commitment to meeting the completion strategy targets while ensuring the respect of due process. It must, however, be stressed that the success of the completion strategy will continue to depend on the assistance and cooperation of States. Sufficient resources must be provided to the Tribunal to complete its work. Member States are also requested to accept the transfer of cases in order to further investigations and trials. Their assistance in the arrest of the indictees still at large, as well as in the relocation of acquitted persons, is also vital to the Tribunal's successful completion of its work.

Introduction

1. The twelfth annual report is submitted to the General Assembly and Security Council by the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, pursuant to article 32 of the Tribunal's statute. It outlines the activities of the Tribunal for the period from 1 July 2006 to 30 June 2007.

2. During the reporting period, the Tribunal, through the Office of the President, the Chambers, the Office of the Prosecutor and the Registry, continued to focus on the implementation of its completion strategy endorsed by the Security Council in its resolution 1503 (2003).

I. Activities of the Tribunal

A. Activity of the President

3. During the reporting period until 29 May 2007, Judge Erik Møse (Norway) served as President of the Tribunal and Judge Arlette Ramaroson (Madagascar) as Vice-President. On 21 May 2007, Judge Charles Michael Dennis Byron (Saint Kitts and Nevis) was elected as President of the Tribunal. Judge Khalida Rachid Khan (Pakistan) was elected Vice-President at the same time.

1. Judicial activity

4. During the reporting period, the President issued several orders assigning cases to Chambers; reviewed a decision by the Registrar denying a request for withdrawal of Co-Counsel; issued three orders for the continued detention of one accused at the Detention Unit of the International Criminal Tribunal for the Former Yugoslavia, at The Hague, The Netherlands; ruled on restrictive measures imposed upon a convicted person detained at the Detention Unit of the Tribunal in Arusha.

5. The President also assigned a referral Bench under rule 11bis of the Rules of Procedure and Evidence to decide on the transfer of Michel Bagaragaza to a State, but denied a Defence Motion seeking the assignment of a referral Bench in the case of *Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*.

2. Completion strategy

6. During the reporting period, the President continued to review and update, in consultation with the Prosecutor, the Tribunal's completion strategy. On 24 May 2007, this document was submitted by President Møse to the Security Council. On 18 June 2007, the newly elected President, Judge Dennis Byron, and the Prosecutor presented their most recent assessment of the implementation of the completion strategy to the Security Council. The assessment included initiatives associated with the management of information and evidence by the Office of the Prosecutor, as well as the Registry's support to the efficient management of trials.

3. Diplomatic relations and other representation

7. Until the expiration of his mandate at the end of May 2007, President Møse continued to be in regular contact with United Nations Headquarters and the diplomatic community, in connection with his addresses to the General Assembly and the Security Council in October and December 2006, respectively, as well as during visits by state representatives in Arusha.

8. During his travel to Headquarters in New York in June 2007, President Byron also engaged in cooperation and outreach activities to secure support for the Tribunal's work.

9. Between 18 and 22 June 2007, President Byron met with 13 representatives of States and Ambassadors to the United Nations. He also met the Secretary-General, Ban Ki-moon, and the Deputy Secretary-General, Asha-Rose Migiro, as well as several heads of key departments at Headquarters. These meetings offered the opportunity to inform, in greater detail, these bodies and representatives on the progress and challenges in the completion of the Tribunal's work as well as to capture their views and concerns as the Tribunal moves towards the end of its activities.

B. Activity of Chambers

1. Composition of the Chambers

10. The Chambers are composed of 16 permanent judges and 9 ad litem judges. Nine permanent judges are members of the three Trial Chambers, while seven permanent judges are members of the Appeals Chamber, five of whom sit at any one time.

11. Trial Chamber I is composed of: Judges Erik Møse (Norway), Jai Ram Reddy (Fiji) and Sergei Alekseevich Egorov (Russian Federation), permanent judges. Judge Florence Rita Arrey, ad litem Judge in Trial Chamber III, also serves in Trial Chamber I.

12. Trial Chamber II is composed of: Judges William H. Sekule (United Republic of Tanzania), Arlette Ramaroson (Madagascar) and Asoka J. N. de Silva (Sri Lanka), permanent judges; Judges Solomy Balungi Bossa (Uganda), Lee Gacuiga Muthoga (Kenya), Emile Francis Short (Ghana), Taghrid Hikmet (Jordan) and Seon Ki Park (Republic of Korea), ad litem judges. In addition, Judge Khalida Rashid Khan, a permanent judge in Trial Chamber III, serves in Trial Chamber II for the *Bizimungu et al.* case.

13. Trial Chamber III is composed of: Judges Dennis C. M. Byron (Saint Kitts and Nevis), Khalida Rashid Khan (Pakistan) and Inés Mónica Weinberg de Roca (Argentina), permanent Judges; Judges Florence Rita Arrey (Cameroon), Gberdao Gustave Kam (Burkina Faso), Robert Fremr (Czech Republic) and Vagn Joensen (Denmark), ad litem judges. Judges Lee Gacuiga Muthoga and Emile Francis Short, ad litem judges in Trial Chamber II, also serve in Trial Chamber III. In addition, Judge Karin Hökborg (Sweden), an ad litem judge in Trial Chamber III, served in the *Seromba* and *Rwamakuba* cases, which was completed at the end of 2006.

14. The Appeals Chamber is composed of: Judges Fausto Pocar (Italy), Mohamed Shahabuddeen (Guyana), Mehmet Güney (Turkey), Liu Daqun (China), Andrésia

Vaz (Senegal), Theodor Meron (United States of America) and Wolfgang Schomburg (Germany).

2. Principal activity of the Trial Chambers and the Appeals Chamber

1. Trial Chamber I

15. During the reporting period, Trial Chamber I rendered one judgement, concluded one large multi-accused case and one single-accused case, heard evidence in two ongoing trials and attended to pre-trial matters in several additional cases.

The Prosecutor v. Jean Mpambara

16. On 12 September 2006, Jean Mpambara, a former *bourgmestre* of Rukara commune in northeastern Rwanda, was acquitted of all charges against him. Mpambara was charged with genocide and extermination for his alleged involvement in attacks at three locations in his commune by aiding and abetting and participating in a joint criminal enterprise. The Chamber found that the evidence did not prove beyond a reasonable doubt that he ever instigated or positively assisted the attackers. In fact, the Chamber found significant evidence suggesting that Mpambara had made efforts to prevent violence and that his resources were limited. This trial concluded on 3 May 2006, after 28 trial days.

The Prosecutor v. Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva ("*Military I* case")

17. On 18 January 2007, the defence case concluded in the *Military I* trial, involving four former high-ranking military officials. They are jointly charged with genocide, crimes against humanity, and serious violations of the Geneva Conventions and Additional Protocol II. Closing arguments were heard between 28 May and 1 June 2007. The trial concluded after 408 trial days, during which time 242 witnesses testified, 1,584 exhibits were tendered into evidence; and more than 300 written judicial decisions were issued. The *Military I* case is one of the five remaining multi-accused trials at the Tribunal. The conclusion of this trial is an important step in the Tribunal's completion strategy.

The Prosecutor v. François Karera

18. The trial of François Karera, a former prefect of Kigali-Rural, commenced on 9 January 2006 and concluded on 24 November 2006. The Chamber heard a total of 43 witnesses, including the accused, over 33 trial days, 15 of which were half days. Judgement is expected shortly.

The Prosecutor v. Tharcisse Renzaho

19. On 8 January 2007, the trial of Tharcisse Renzaho, a former prefect of Kigali-ville, commenced. The prosecution case closed on 7 February 2007, after having presented 23 witnesses over the course of 18 trial days. The defence is currently presenting its evidence and is expected to conclude its case in early September 2007.

The Prosecutor v. Hormisdas Nsengimana

20. The trial of Abbot Hormisdas Nsengimana, a Catholic priest, commenced on 22 June 2007. Nsengimana, who is accused of genocide and crimes against humanity, was formerly a Rector of Christ-Roi College in Nyanza, Nyabisindu commune in Butare prefecture.

Pre-trial matters

21. The Chamber held numerous status conferences and attended to pre-trial matters in six other cases, as well as having confirmed some other indictments. The Chamber also issued a warrant of arrest and order for the transfer of a former prosecution witness before the Tribunal in a case of alleged false testimony and contempt of court.

2. Trial Chamber II

22. During the reporting period, Trial Chamber II issued 2 judgements, conducted trials in 6 cases involving a total of 18 accused and attended to pre-trial matters in 5 single-accused cases.

The Prosecutor v. Tharcisse Muvunyi

23. On 12 September 2006, the Chamber rendered its judgement in this case. Tharcisse Muvunyi, a Lieutenant-Colonel stationed at the École des sous-officiers in Butare, was convicted of genocide, direct and public incitement to commit genocide, and other inhumane acts. He was acquitted on the charge of rape as a crime against humanity. The case is currently on appeal.

The Prosecutor v. Joseph Nzabirinda

24. On 14 December 2006, Joseph Nzabirinda, a former employee of Ngoma commune in Butare working as *encadreur* of youths, pleaded guilty to aiding and abetting murder, a crime against humanity. The Chamber accepted his plea. Following a pre-sentencing hearing on 17 January 2007, where five character witnesses were heard, the Chamber sentenced Nzabirinda to seven years' imprisonment on 23 February 2007.

The Prosecutor v. Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi, and Élie Ndayambaje ("*Butare* case")

25. This trial, involving the largest number of jointly prosecuted accused before the Tribunal, has progressed to an advanced stage. On 27 June 2006, Sylvain Nsabimana, prefect of Butare from 19 April to 17 June 1994, started the presentation of his defence. He was the third accused to present his defence in this case. After calling 11 witnesses, including the Accused, he closed his case on 11 November 2006. The defence for Nteziryayo (prefect of Butare from 17 June to July 1994) started on 2 December 2006 and closed on 9 July 2007, after calling 23 witnesses, including the accused. The defence for Kanyabashi (former *bourgmestre* of Ngoma commune in Butare) penultimate accused to present his defence, made its opening statement on 10 July 2007. The case is scheduled to resume on 20 August 2007. Defence cases for Nyiramasuhuko, Ntahobali, Nsabimana and Nteziryayo

have closed, save for one witness for Ntahobali, who is scheduled to testify via video link in October 2007, and one witness for Nteziryayo, who has not yet been located. During the reporting period, 31 written decisions and 22 substantive oral decisions were rendered. The Chamber sat for 142 days.

The Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Prosper Mugiraneza, and Jérôme Bicamumpaka ("*Bizimungu et al.* Case")

26. During the reporting period, the defence for Justin Mugenzi (Minister of Trade and Industry in April 1994) completed the presentation of its case on 29 August 2006, after calling 19 witnesses, including the accused. The defence for Casimir Bizimungu (Minister for Health in the Interim Government) then commenced the presentation of his case on 30 August 2006. The Chamber heard 22 witnesses, including the accused. The presentation of this defence took three trial sessions and closed on 12 June 2007. The proceedings are now adjourned to 13 August 2007 for the commencement of the defence of Jérôme Bicamumpaka, the third accused person in this case. During the reporting period, the Chamber sat for 77 days and 30 written and oral decisions were rendered.

The Prosecutor v. Augustin Ndindiliyimana, Augustin Bizimungu, Francois-Xavier Nzuwonemeye, and Innocent Sagahutu ("*Ndindiliyimana et al.* Case")

27. This joint trial of four former senior military officers commenced on 20 September 2004. The prosecution closed its case on 7 December 2006 after calling 71 factual witnesses, plus 1 expert witness. The defence of the first accused commenced on 16 April 2007. As of 18 June 2007, the defence had called 24 witnesses. During the reporting period, the Chamber rendered 30 written and 10 oral decisions, and sat for 75 trial days. The case has been adjourned to 17 September 2007 for the continuation of the defence case.

The Prosecutor v. Emmanuel Rukundo

28. This trial commenced on 15 November 2006. On 12 March 2007, the prosecution closed its case after calling 18 witnesses during 25 trial days. The defence commenced on 9 July 2007. During the reporting period, the Chamber rendered 14 written and 1 oral decision over the course of 25 trial days.

The Prosecutor v. Juvénal Rugambarara

29. This case is still at the pre-trial phase. On 12 June 2007, the Prosecutor filed a motion for leave to amend the indictment. On 13 June 2007, the parties filed a joint motion for consideration of a guilty plea. On 28 June 2007, the Chamber granted the request for amendment of the indictment. The amended indictment was filed on 2 July 2007. On 13 July 2007, the Chamber accepted the guilty plea of the accused and scheduled a sentencing hearing for 17 September 2007.

Pre-trial matters

30. The Chamber attended to pre-trial matters in the case of *Tharcisse Renzaho, Hormisdas Nsengimana, Joseph Nzabirinda, Juvénal Rugambarara* and *Emmanuel Rukundo*.

3. Trial Chamber III

31. During the reporting period, Trial Chamber III issued two judgements, conducted trials in three cases involving six accused, referred one indictment to a State and attended to pre-trial matters in a case involving one accused.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera

32. This trial concluded its third session on 10 July 2006, after 32 trial days during which the Chamber heard four prosecution witnesses. The fourth trial session commenced on 26 October 2006. At its conclusion on 13 December 2006, a total of 13 prosecution witnesses had been heard by the Chamber. However, on 19 January 2007, one of the judges withdrew from the case for health reasons. After hearing the parties on the matter, the remaining judges decided, on 6 March 2007, on the continuation of the proceedings with a substitute judge. That decision was affirmed by the Appeals Chamber on 20 April 2007. Judge Vagn Joensen joined the Bench on 8 June 2007. The trial resumed on 12 June 2007 for the continuation of the prosecution case. The fifth trial session concluded on 30 July 2007. During the reporting period, the Chamber sat for 46 days and delivered more than 50 oral and written decisions.

The Prosecutor v. Athanase Seromba

33. On 13 December 2006, after hearing a total of 39 witnesses over 67 trial days, the Chamber found Athanase Seromba, a Roman Catholic priest, guilty of genocide and extermination as a crime against humanity. A single sentence of 15 years of imprisonment was imposed on Seromba. Both parties filed a notice of appeal against the judgement.

The Prosecutor v. André Rwamakuba

34. This trial concluded on 9 February 2006, after 79 trial days. On 20 September 2006, André Rwamakuba, Minister of Primary and Secondary Education in the Interim Government of April 1994, was acquitted of all charges against him. Rwamakuba was charged with genocide, or alternatively, complicity in genocide, and crimes against humanity for acts allegedly committed between 6 and 30 April 1994 in Gikomero commune and at Butare University Hospital. After assessing the evidence as a whole, the Chamber found the prosecution witnesses not credible or reliable. It concluded that the prosecution failed to prove beyond a reasonable doubt the allegations against Rwamakuba. The Chamber also found that André Rwamakuba's right to legal assistance had been violated as a result of the Registrar's failure to appoint Duty Counsel during the initial months of his detention at the United Nations Detention Facility. It therefore ordered an appropriate remedy. The decision on the appropriate remedy is pending appeal.

The Prosecutor v. Protais Zigiranyirazo

35. This trial started on 3 October 2005, with the prosecution calling 25 witnesses, including four investigators and one expert witness. The prosecution closed its case on 28 June 2006, after 46 trial days. Following the Appeals Chamber decision vacating the Trial Chamber's decision to hear prosecution witness Michel Bagaragaza in the absence of the accused, the prosecution reopened its case to hear the witness anew. The prosecution then closed its case for a second time on

30 November 2006. Thus far, the defence has called 35 witnesses over 35 trial days, and will finish its case in the next trial session, set to begin 19 November 2007.

The Prosecutor v. Simon Bikindi

36. The trial of Simon Bikindi, a well-known composer and singer of popular music, started on 18 September 2006. The prosecution closed its case on 22 February 2007 after having called 20 witnesses, including one investigator and two expert witnesses. After the withdrawal of the lead counsel for the accused by the Registrar, a new lead counsel was appointed, and the defence case is scheduled to commence on 24 September 2007.

The Prosecutor v. Michel Bagaragaza

37. On 30 August 2006, the Appeals Chamber upheld the Trial Chamber's decision denying the prosecution's request for referral of the original indictment against Michel Bagaragaza to Norway. On 30 November 2006, the Trial Chamber granted the prosecution leave to amend the Indictment to add an additional war crimes count. Furthermore, at the prosecution's request, the Chamber granted, in April 2007, the referral of the amended indictment to the Netherlands.

Pretrial matters

38. The Chamber is seized of pretrial matters in relation to the case of *Idelphonse Hategekimana*.

4. Appeals Chamber

39 During the reporting period, the Appeals Chamber was seized of appeals from judgement in 8 cases, 10 interlocutory appeals, 9 motions for review or reconsideration, and 2 referral appeals. The Appeals Chamber rendered 4 judgements, 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

(a) Appeals from Judgement

The Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe

40. On 6 and 7 February 2006, the Appeals Chamber heard, in Arusha, the submissions on the merits of the prosecution's appeal as well as the appeal of Samuel Imanishimwe, an acting commander of the Cyangugu military camp in April 1994. At a court session on 8 February 2006, the Appeals Chamber rejected the prosecution's appeal against the acquittals of André Ntagerura (former Minister of Transport and Communications in the Interim Government) and Emmanuel Bagambiki (prefect of Cyangugu). The judgement was rendered on 7 July 2006.

The Prosecutor v. Sylvestre Gacumbitsi

41. On 17 June 2004, the Trial Chamber found Sylvestre Gacumbitsi, a *bourgmestre* in April 1994, guilty of genocide and crimes against humanity. It imposed a single sentence of 30 years' imprisonment.

42. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 8 and 9 February 2006 in Arusha. On 7 July 2006, the Appeals

Chamber allowed in part the prosecution's appeal and entered a sentence of imprisonment for the remainder of Gacumbitsi's life.

Emmanuel Ndindabahizi v. The Prosecutor

43. The Appeals Chamber heard the submissions on the merits of the appeal of the Minister of Finance of the Interim Government on 9 April 1994, Emmanuel Ndindabahizi, on 6 July 2006 in Arusha. On 16 January 2007, the Appeals Chamber vacated three convictions against him, but affirmed the sentence of imprisonment for the remainder of his life imposed by the Trial Chamber.

Mikaeli Muhimana v. The Prosecutor

44. On 28 April 2005, Mikaeli Muhimana was found guilty of genocide, and rape and murder as crimes against humanity. He was sentenced to imprisonment for the remainder of his life.

45. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 15 January 2007 in Arusha. In the judgement rendered on 21 May 2007, although the Appeals Chamber allowed two grounds of appeal filed by Muhimana, it affirmed his sentence.

Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze v. The Prosecutor

46. On 3 December 2003, the Trial Chamber sentenced to life imprisonment Ferdinand Nahimana, Jean-Bosco Barayagwiza, co-founders of Radio Télévision Libre des Milles Collines and members of its Steering Committee, and Hassan Ngeze, founder and Editor-in-Chief of the newspaper *Kangura*, notably for their direct and public incitement to commit genocide through the use of the media.

47. Pre-appeal procedures were completed during the reporting period, with 32 pre-appeal decisions or orders being issued by the Appeals Chamber and the Pre-Appeal Judge, including several decisions on motions for leave to present additional evidence pursuant to rule 115 of the Rules of Procedure and Evidence. The Appeals Chamber heard the submissions on the merits of the appeals by all parties from 16 through 18 January 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

Aloys Simba v. The Prosecutor

48. On 13 December 2005, Aloys Simba, a retired lieutenant colonel, was found guilty of genocide and crimes against humanity. He was sentenced to 25 years' imprisonment.

49. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 22 May 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

Tharcisse Muvunyi v. The Prosecutor

50. Trial Chamber II rendered its judgement in this case during the reporting period, on 12 September 2006, and issued the written judgement on 18 September

2006. Tharcisse Muvunyi filed his notice of appeal on 12 October 2006, and the prosecution filed its notice of appeal on 17 October 2006. The pre-appeal procedures continued through the end of the reporting period, with all briefing being completed in May 2007. The Appeals Chamber is preparing to hear the merits of the appeals in the next reporting period.

Athanase Seromba v. The Prosecutor

51. Trial Chamber III rendered its judgement in this case on 13 December 2006, and issued the written judgement on 19 December 2006. Both parties appealed the judgement. The prosecution's notice of appeal was filed on 11 January 2007. Athanase Seromba's notice of appeal was filed on 19 January 2007. The pre-appeal procedures and briefing continued through the end of the reporting period.

(b) Interlocutory appeals: most significant decisions

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Aloys Ntabakuze's Interlocutory Appeal on Questions of Law Raised by the 29 June 2006 Trial Chamber I Decision on Motion for Exclusion of Evidence, 18 September 2006

52. On 18 September 2006, the Appeals Chamber allowed, in part, Aloys Ntabakuze's appeal of a Trial Chamber decision on his request to exclude certain evidence as outside the scope of the indictment. The Appeals Chamber found that the Trial Chamber did not err in its articulation of the principles concerning defects in the indictment and clarified the approach to take when deciding whether an objection based on a defect in the indictment should be considered as timely raised. The Appeals Chamber instructed the Trial Chamber to consider whether the extent of the defects in the indictment materially prejudiced the accused's right to a fair trial by hindering the preparation of a proper defence.

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Interlocutory Appeal Relating to Disclosure under rule 66 (B) of the Tribunal's Rules of Procedure and Evidence, 25 September 2006

53. On 25 September 2006, the Appeals Chamber granted the appeal of Anatole Nsengiyumva and Gratien Kabiligi against a Trial Chamber decision which denied their request for the disclosure of certain documents related to anticipated defence witnesses that were in the possession of the prosecution. The Appeals Chamber found that the Trial Chamber erred in law by narrowly construing the prosecution's disclosure obligations under rule 66 (B) of the Rules of Procedure and Evidence in a manner inconsistent with the plain language of the provision and ordered the Trial Chamber to reconsider the defence request for the documents.

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Motion for Reconsideration, 4 October 2006

54. On 4 October 2006, the Appeals Chamber rejected the request of Aloys Ntabakuze to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" rendered in the *Karemera et al.* case. The Appeals Chamber found that Aloys Ntabakuze had no standing to seek reconsideration of a

decision rendered in another case. It held that, as a general principle, only a party to a decision may request reconsideration thereof.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Motions for Reconsideration, 1 December 2006

55. On 1 December 2006, the Appeals Chamber dismissed the requests of Édouard Karemera, Joseph Nzirorera, and Mathieu Ngirumpatse to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" of 16 June 2006, in which it ordered Trial Chamber III to take judicial notice of three facts, including the fact that between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. The Appeals Chamber held that the appellants failed to demonstrate a clear error of reasoning in the decision or that reconsideration of the decision was necessary to prevent an injustice.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Appeals Pursuant to Rule 15bis(D), 20 April 2007

56. On 20 April 2007, the Appeals Chamber dismissed the appeals of Mathieu Ngirumpatse and Joseph Nzirorera from the "Decision on Continuation of the Proceedings", rendered on 6 March 2007, in which the two remaining judges decided to continue the part-heard trial with a substitute judge after one judge withdrew from the Bench. The Appeals Chamber found that the continuation of the trial with a substitute judge would not infringe the fair trial rights of the accused.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Interlocutory Appeal Regarding Witness Proofing, 11 May 2007

57. On 11 May 2007, the Appeals Chamber dismissed Joseph Nzirorera's appeal of a Trial Chamber decision, which permitted the parties to "proof" their witnesses prior to their testimony. The Appeals Chamber found no error in the Trial Chamber's decision to distinguish a pretrial decision of the International Criminal Court, which prohibited the practice, as it was not binding on the Tribunal. The Appeals Chamber further found that the Trial Chamber's definition of acceptable witness proofing was consistent with the approach approved by the Appeals Chamber in the Gacumbitsi appeal judgement.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on "Joseph Nzirorera's Interlocutory Appeal of Decision on Obtaining Prior Statements of Prosecution Witnesses after They Have Testified", 31 May 2007

58. On 11 April 2007, Joseph Nzirorera appealed against the "Decision on Defence Motion for Cooperation of Rwanda to Obtain Statements of Prosecution Witnesses ALG, GK and UB" of 22 March 2007, on the basis that the two judges who rendered this decision exceeded their authority under rule 15bis(F) of the Rules of Procedure and Evidence. In its decision of 31 May 2007, the Appeals Chamber considered that Rule 15bis(F) allowed for a two-judge bench to conduct routine matters, but that, in this case, the issues considered and ruled upon by the two judges were of a non-routine nature. Consequently, the Appeals Chamber granted the motion in part and vacated the impugned decision.

Protais Zigiranyirazo v. The Prosecutor, Decision on Interlocutory Appeal, 30 October 2006

59. On 30 October 2006, the Appeals Chamber granted Protais Zigiranyirazo's appeal of a Trial Chamber decision, which decided to hear a witness in person in the Netherlands while he followed the proceedings by video-link. The Appeals Chamber held that the Trial Chamber erred in law in finding that Protais Zigiranyirazo's right to be present at his trial during the testimony of an apparently key witness against him could be met by video-link and excluded the testimony of the witness.

(c) Motions for review or reconsideration

Georges Rutaganda v. The Prosecutor, Decision on Requests for Reconsideration, Review, Assignment of Counsel, Disclosure, and Clarification, 8 December 2006

60. On 8 December 2006, the Appeals Chamber dismissed Georges Rutaganda's request for reconsideration and review of the appeal judgement in his case. The Appeals Chamber determined that it had no jurisdiction to reconsider a final judgement and that Georges Rutaganda had not identified any new facts which would have resulted in a miscarriage of justice in his case, necessitating review.

Eliézer Niyitegeka v. The Prosecutor, Decision on Request for Review, 6 March 2007

61. On 6 March 2007, the Appeals Chamber dismissed Eliézer Niyitegeka's second request for review. The Appeals Chamber determined that Eliézer Niyitegeka did not identify any new facts for purposes of review.

(d) Appeal concerning referral

The Prosecutor v. Michel Bagaragaza, Decision on rule 11bis Appeal, 30 August 2006

62. On 30 August 2006, the Appeals Chamber dismissed the prosecution's appeal of a Trial Chamber decision denying its request to transfer the case against Michel Bagaragaza to Norway under rule 11bis of the Rules of Procedure and Evidence. The Appeals Chamber noted that Norway's jurisdiction over Michel Bagaragaza's crimes would be exercised pursuant to legislative provisions addressed to the prosecution of ordinary crimes. The Appeals Chamber held that the Tribunal may refer cases only to States with a capacity to charge and convict for those international crimes listed in the Tribunal's statute.

C. Activity of the Office of the Prosecutor

63. With regard to the Office of the Prosecutor, headed by Hassan Jallow, all outstanding indictments for genocide have now been confirmed. The Prosecutor has handed 30 case files to the Government of Rwanda for prosecution before the national court. The Prosecutor, pursuant to rule 11bis of the Rules of Procedure and Evidence, has transferred one case to the Netherlands and has filed motions for the transfer of one case to Rwanda and two cases to France. The Prosecutor awaits Trial Chamber decisions on the three motions. Negotiations are in progress with a number of Governments for the transfer of approximately 15 cases from the Tribunal to

national jurisdictions. The African Commission on Human and Peoples' Rights has agreed to monitor all cases transferred to African countries on behalf of the Prosecutor. The tracking of fugitives has intensified.

D. Activity of the Registry

64. The Registry, headed by Adama Dieng, continued to support the judicial process by providing administrative and management support to the other organs of the Tribunal, and providing judicial and legal support to the Trial Chambers and the defence. The Registry continued to seek support from Member States, international organizations and other stakeholders in the conduct of proceedings.

1. Office of the Registrar

65. The Immediate Office of the Registrar has maintained high-level diplomatic contacts and brought about formal and informal agreements with States and international organizations to secure their continued cooperation with the Tribunal and ensure, among other things, the smooth running of trials, protection of witnesses, and the successful and timely meeting of the completion strategy. Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to the court proceedings.

66. During the reporting period, there has been a significant increase in judicial cooperation with Member States. The External Relations and Strategic Planning Section sent more than 120 notes verbales and correspondences requesting assistance and judicial cooperation from Member States for defence teams, compared to approximately 100 during the previous year. Official correspondence has been sent to various Member States with a view to organizing meetings and interviews of potential witnesses by members of the defence teams, establishing contacts with potential witnesses in order to obtain their preliminary approval for travel to the seat of the Tribunal for testimony purposes and to organize video-links from several Members States. Overall, the Tribunal benefited from a good level of cooperation from Member States and international organizations.

67. During the reporting period, diplomatic efforts led to the successful relocation of one acquitted person in December 2006. Up to 30 June 2007, three acquitted persons remained under the Tribunal's protection; two of them have remained so for more than three years. The Registrar continues to deploy all efforts for their relocation. An additional relocation took place in early July 2007.

68. The Conference and Protocol Services Unit witnessed an increase of approximately 385 per cent in the number of persons visiting the Tribunal in the first half of 2007. The Tribunal continued to host numerous government ministers, civil society representatives, human rights advocates, members of the Rwandan Genocide Survivors' Association and university students. On 7 March 2007, the President, Prosecutor and Registrar of the Tribunal met with the United States Ambassador-at-Large for War Crimes.

69. The Press and Public Affairs Unit, in compliance with the completion strategy, increased its monitoring and internal circulation of Tribunal-related media reports. The Unit increased the number of press briefings and press releases issued. It also

improved the Tribunal's website, making it more attractive and accessible and updated it daily. The Tribunal updated and recirculated its films, informational brochures, posters and case profile lists, and accused lists were updated to reflect the latest developments. The Unit processed numerous local and international enquiries, and broadcast several judicial proceedings via satellite signal for use by media professionals and the public. In an effort to publicize and promote the work of the Tribunal, the Unit organized exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda, Ghana and several Rwandan schools, and launched an annual drawing and essay competition related to the work of the Tribunal for primary and secondary school students in Rwanda and the United Republic of Tanzania.

70. The Outreach Programme continued to organize regular visits of Rwandan journalists, lawyers, human rights advocates, religious leaders, and civil society representatives to the Tribunal in Arusha, where they were able to attend and observe trials proceedings and to be briefed on various aspects of the work of the Tribunal. The Outreach Programme was strengthened with input from the Press and Public Affairs Unit and witnessed an increase in attendance to an average of 100 visitors per day at *Umusanzu mu Bwiyunge*, the Information Centre in Kigali, Rwanda. The programme, in collaboration with the Rwandan judiciary, also conducted capacity-building needs assessment training. It provided online legal research and training sessions in legal information and evidence management to approximately 290 Rwandan university students, professors, judicial officials, Rwandan court registrars and personnel in the Rwandan Office of the Prosecutor General. The Outreach Programme also extended its awareness-raising campaigns to youth in Rwandan secondary schools. During the reporting period, the Outreach Programme produced documentaries on some of the completed cases of the Tribunal and screened them before approximately 7,000 students in 13 Rwandan schools.

71. During the period under review, the Special Adviser to the Registrar on Gender Issues continued to support the Registrar's executive directive for the attainment of gender balance in the processes of staff recruitment, promotions and the integration of gender concerns in relevant administrative and judicial procedure, and provided technical inputs for promoting the Tribunal's gender-sensitive policies and programmes. The Adviser saw an increase in cooperation and funding from the European Union and the Irish Government. Major activities by the Adviser targeted the provision of support measures conducive to the physical and psychological rehabilitation of witnesses, particularly victims of sexual assault and other gender-based crimes. The Tribunal's Support Programme for Witnesses, funded from the Voluntary Trust Fund and coordinated by the Special Adviser on Gender Issues, provided for the delivery of medical and related social services to witnesses via the Tribunal's Annex Clinic for witnesses in Kigali. This project has witnessed increased accountability for specialized care offered by the Tribunal.

72. During the reporting period, the Legal Services and Internship Programme Unit assigned 205 interns and 13 legal researchers to the various Sections and Units of the Tribunal. The interns and legal researchers came from 46 countries from Africa, Europe, North America, Asia and Australia. On average, 60 per cent of the participating interns were women. The highest number of legal interns and legal researchers were accepted by the Office of the Prosecutor as well as the Chambers Support Section. Additional interns were assigned in smaller numbers to various Registry Sections. Owing to the limited office space set aside for interns, the various

Receiving Sections and Units of the Tribunal could not accommodate more than this number of interns and legal researchers during the period under review.

2. Judicial and Legal Services Division

73. During the reporting period, the Court Management Section continued to provide support and services to the various sections of the Chambers of the Tribunal. The English Court Reporters Unit and French Court Reporters Unit have again significantly and efficiently improved the turnaround time for production of transcripts. The real-time court reporting pilot project, initiated in April 2005, has been extended to all ongoing trials. This system provides instantaneous transcripts of the proceedings to the judges and the parties concerned.

74. In addition to supporting the ongoing work of the Trial Chambers, the Judicial Records and Archives Unit has implemented a project to enhance the user-friendliness of the archives system, TRIM database, by converting all documents into full-text searchable material. The original materials from three closed cases have been shipped to United Nations Headquarters in New York for permanent retention. The Judicial Records and Archives Unit staff have conducted several information management training sessions as part of the Rwandan capacity-building programme. It has continued to provide assistance in archiving the administrative records of other support sections within the Tribunal, and has assisted in developing plans and policies regarding the archival legacy of the Tribunal.

75. During the reporting period, the Defence Counsel and Detention Management Section continued to offer necessary support to defence teams representing indigent accused persons or suspects before the Tribunal, as well as provide assistance to accused persons or suspects detained at the United Nations Detention Facility under the authority of the Tribunal. The effective disposal of cases by trial or appeal led to a slight drop in the number of defence teams, from 96 in 2006 to 80 in 2007. There was a measured drop in the number of complaints from detainees. The Defence Counsel and Detention Management Section continues to work on improving its databases. The Unit, in collaboration with the Judicial Records/Archives Unit, worked on its filing and record system to facilitate retrieval of information. The Unit was also pivotal in working to introduce necessary amendments to basic documents.

76. Following the death of one prisoner, the acquittal of two detainees, and the release of one prisoner after completion of his imprisonment term, the United Nations Detention Facility at Arusha housed a total of 55 persons, including 35 detainees and 20 prisoners during this reporting period. The Detention Facility also temporarily housed 23 prisoner witnesses from Rwanda, and one from Mali for the duration of their testimony before the Tribunal. The International Committee of the Red Cross visited the detention facility on 8 November 2006 and noted that it conforms to international prison standards.

77. During the reporting period, the Witnesses and Victims Support Section monitored a total of 280 witnesses, including 114 prosecution witnesses, called to testify in 7 trials and 166 defence witnesses called to testify in 14 trials. In cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the government authorities in the concerned countries of residence, one of the prosecution witnesses was relocated and all other witnesses were returned to their countries of residence. Post-trial monitoring and protective measures are

diligently being implemented with improved communication between UNHCR and the witnesses' host countries.

78. During the period under review, the Language Services Section has continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. In addition, in the light of the completion strategy of the Tribunal, two roster-building campaigns aimed at selecting suitable simultaneous interpreters from various countries were also undertaken with a view to pre-empting any potential disruption in the smooth running of Trial Chambers.

79. During the reporting period, the Legal Library and Reference Section continued to provide valuable information and documentation services in order to support the Tribunal's trial process. The library online public access catalogue enhanced access to the Library holdings and contributed to increase the number of requests for Library services from internal as well as external users. The *Umusanzu* outreach library unit in Kigali increased its collection to respond to the growing demand of Rwandan users, and continued to receive more than 80 users per day. The Library Section initiated the compilation of a jurisprudential DVD that will comprise the case law of the Tribunal from 1995 to 2006. The Library also provided training in library management and jurisprudence compilation to a team of Rwandan judicial librarians. In addition, the Library developed a training curriculum for the Rwandan Bar Association and organized internal training in information management, web design and web publishing in June 2007 for the Tribunal's librarians.

3. Division of Administrative Support Services

80. As of 30 June 2007, the Tribunal had 891 staff members against an authorized complement of 1,042 posts, with 151 vacant posts. Members of staff come from 88 countries. The staff gender ratio was 63 per cent male and 37 per cent female. The average vacancy rate during the 12-month period under review was 12 per cent. As at 30 June 2007, the average vacancy rate stood at 15 per cent. If the current trend continues, the Tribunal projects that the vacancy rate will be 22 per cent by the end of 2007. The Training, Staff Welfare and Counselling Unit has increased the number of staff development courses offered in order to assist in improving staff retention.

81. The Health Services Unit in Arusha has introduced trauma counselling services to witnesses who are appearing before the Trial Chambers in order to support them during testimony. Similar counselling services are being provided to staff members experiencing anxiety owing to the closing process of the Tribunal. The Health Services Sub-Unit in Kigali is assisted by a consultant doctor, who is providing medical services to staff members and their dependants. Medical care is also provided in Kigali to witnesses, thanks to the assistance of a doctor, two nurses and a laboratory technician.

II. Recommendations

82. In view of its completion strategy and the time frames stipulated in Security Council resolutions 1503 (2003) and 1534 (2004), the Tribunal recommends that:

(a) It continue to receive sufficient resources to enable it to complete its work and mandate to bring to justice those persons who were the alleged architects

of the genocide and violations of international humanitarian law that were committed in Rwanda in 1994;

(b) Member States continue to facilitate the travel of witnesses to and from the seat of the Tribunal, particularly in cases where witnesses do not have the required travel documents;

(c) Member States remain receptive to discussions relating to the possible transfer of cases to their respective jurisdictions for trial;

(d) Member States assist and cooperate in the arrest and transfer of accused and suspects who remain at large;

(e) Member States continue to assist the Tribunal to resettle individuals who are acquitted by the Tribunal and who are awaiting identification of a State willing to grant them permanent residence.

Conclusion

83. As the present report demonstrates, the Tribunal remained committed to doing all in its power to discharge its mandate as effectively and efficiently as possible during the reporting period. The Tribunal intensified its prosecutorial and judicial work and strengthened efforts to improve the Rwandan judicial system, including its capacity to prosecute cases transferred from the Tribunal. Key achievements include: the delivery of five Trial Chamber judgements and four Appeals Chamber judgements; the completion of two cases concerning five accused; the major progress made in the presentation of the defence cases in seven trials involving 18 accused; the commencement of the trial of one accused; a guilty plea in one single-accused case; the referral of one case to a State; and the maximization of the use of the Tribunal's courtrooms.

84. In the process of achieving its mandate, the Tribunal also contributes to bring justice to victims of the massive crimes that were committed, and is continuously establishing a record of facts that will aid reconciliation in Rwanda. The Tribunal will leave a legacy of international jurisprudence that can guide future courts and deter the future commission of these grave crimes, and prevent impunity by potential perpetrators.

85. The Tribunal expresses its appreciation to Member States for their continuing interest in and support of its activities.